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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,401	02/25/2004	Manfred Hochkoenig	028987.53207US	9804
23911	7590	01/26/2006	EXAMINER	
CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300			COLLADO, CYNTHIA FRANCISCA	
			ART UNIT	PAPER NUMBER
			3618	
DATE MAILED: 01/26/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/785,401 Examiner Cynthia F. Collado	HOCHKOENIG ET AL. Art Unit 3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 26 February 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 2-6 and 20-25 is/are pending in the application.  
 4a) Of the above claim(s) 1 and 7-19 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 2-6 and 20-25 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 26 February 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 3/4/2005.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant submitted an amendment dated November 3, 2005, wherein claims 2-6 remain in the application, claims 1 and 7-19 are cancelled, and new claims 20-25 are added.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 20, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

See MPEP § 2173.05(d).

3. Claim 20 recites the limitation "in particular" in line 1 which is unclear.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-6,20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Preiss'878 (US Patent No.5, 025,878 in view of Falk et al'892 (US Patent No.6, 662,892).

6. Regarding claim 20, Preiss discloses a covering panel part (see figure 1, element 4) situated beneath the drive unit as part of a covering undercarriage of a vehicle superstructure, wherein inflowing air fed to a transmission case (see figure 2, element 12) via air inlets (see figure 2, element 16) in the covering panel part of the undercarriage and a hot layer zone formed on an engine side are superimposed so as to create a cold air layer zone, wherein a temperature interface develops between the hot and cold air layer zones, thus extending temporarily a surface in an area of upper limits of the transmission case and across a lower partial region of a rear engine housing arranged behind the transmission case (see column 2, lines 19-61), Preiss lacks the teaching of an intake fan, However Falk discloses air outlet openings provided in the covering panel for removing air and an intake fan is located in an installation space above the engine for providing cold air inflow, and wherein the cold air inflow pressurizes the hot air layer zone (see figure 1, element 20) also (see column 2, lines 15-36). Based on the teaching of Falk, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the cooling system of Preiss to include an intake fan as in Falk so as to prevent the vehicle from overheating.

Art Unit: 3618

Regarding claim 2, Preiss discloses wherein the air inlets are provided on a front side, as seen in a direction of travel, beneath the transmission case in the covering panel part of the undercarriage and wherein air outlet openings are provided at the rear beneath the engine housing in the installation space (see column 3, lines 33-41)

Regarding claim 3, Preiss discloses wherein the air inlets are provided in a front area beneath the transmission case over a large area in the covering panel part (see figure 1, elements 16 and 12), and wherein the air outlet openings are provided in a rear area of the engine housing (see figure 1, element 9).

Regarding claims 4 and 21, Preiss discloses wherein at least one additional air inlet opening, defining an oncoming flow channel, is provided behind the air inlets, as seen in a direction of travel, in the covering panel part of the undercarriage, and is directed at a differential of the transmission (see column 1, lines 44-60) also (see column 3, lines 1-13).

Regarding claims 6 and 25, Preiss discloses wherein the cold air layer zone can be enlarged as a function of the driving speed of the vehicle and can increase in size upward due to air flowing into the installation space through the air inlets, displacing the hot air layer zone upward, and wherein an outward flow of hot air on the engine side through the air outlet openings can be achieved (see column 3, lines 33-41) also (see column 2, lines 44-61).

Regarding claims 5,22,23 and 24, Falk teaches a scavenging air blower (see figure 1, element 20) provided for the engine at the top (see figure 1, element 21) in an installation space and wherein the scavenging air blower (see figure 1, element 20) has

a compressed air inlet supply which acts upon the warmer air layer zone (see column 2, lines 15-35).

***Response to Arguments***

Applicant's arguments with respect to claim 20 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

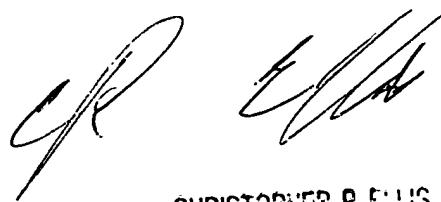
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia F. Collado whose telephone number is (571)2728315. The examiner can normally be reached on mon-fri 8-4.

Art Unit: 3618

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571)2726914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CJC 1/11/06  
CFC



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